

AMENDMENTS TO THE DRAWINGS

The attached sheets of drawings includes changes to FIG. 1 and FIG 9.

Attachment: Replacement sheet
 Annotated sheet showing changes

REMARKS

Reconsideration and allowance of the subject application are respectfully requested. Applicant thanks the Examiner for total consideration given the present application. Claims 1-25 were pending prior to the Office Action. Claims 26-27 have been added through this reply. Claim 2 has been canceled without prejudice or disclaimer of the subject matter included therein. Claims 11-14, 17, and 24-25 have been withdrawn without prejudice or disclaimer of the subject matter included therein. Therefore, claims 1 and 3-27 are pending. Claims 1, 5-6, 11, and 16-21 are independent. Applicant respectfully requests reconsideration of the rejected claims in light of the remarks presented herein, and earnestly seeks a timely allowance of all pending claims.

Preliminary Comments

Applicant has amended the Drawings in order to correct minor typographical errors. Support for the amendment may be found in the specification (see line 22 of page 13 through line 1 of page 14 and line 4 of page 36 through line 25 of page 36). No new matter has been added.

Allowable Subject Matter

Applicant appreciates that claims 18-21 are indicated to be allowable (see Office Action dated February 23, 2009, Office Action Summary, line 5). Applicant further appreciates that claims 5-10 are indicated to define allowable subject matter (see Office Action dated February 23, 2009, Office Action Summary, line 7).

Accordingly, Applicant has amended claims 5 and 6 into independent format. Thus, claims 5 and 6 are allowable.

Claim Rejection - 35 U.S.C. § 101

The Examiner rejected claim 22 asserting that claim 22 is not directed to statutory subject matter. By this amendment, Applicant has canceled claim 22. Therefore, the rejection of claim 22 is moot.

Claim Rejection - 35 U.S.C. § 102(e)

Claims 1-4, 15-16, and 22-23 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Ishikawa et al. (U.S. Patent Publication 2002/0061064). Applicant respectfully traverses this rejection.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02*. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Ishikawa fails to teach or suggest each and every claimed element.

Argument: Features of claims 1 and 16 are not taught by Ishikawa:

The claimed apparatus of independent claim 1 includes a transmitter that receives a communication condition from a receiver. The communication condition is a detected signal strength or a detected channel interference that is used for setting the transmission rate of the data to be transmitted by the transmitter. The claimed apparatus of independent claim 1 also includes setting of the transmission rate of the data to be transmitted by the transmitter depending on the type of video and/or audio content. For example, the transmitter sets of the transmission rate of the data depending on the signal strength and on whether the content is news data or sports program data.

In contrast to the claimed apparatus of independent claim 1, Ishikawa merely discloses a system (Figure 1) where a camera(s) (elements 10-1 to 10-n) takes an image(s) of a coverage area(s) and the transmission rate required for the communication path can be set at a lower level when image information representing images in a region (coverage area) that does not correspond to a dynamic region or, in another embodiment, the transmission rate of the communication path can be set to a higher level when the image information includes no dynamic regions among the image information individually representing the images of the coverage areas of a single or a plurality of the cameras. (See Ishikawa, paragraphs 117 and 147.)

In regards to original independent claim 1, Ishikawa's cameras are not receiver, nor are they receiving units for receiving a communication condition detected at the receiver. Applicant has *only* amended claims to move prosecution forward even though Ishikawa fails to explicitly disclose the claimed apparatus of original independent claim 1.

Thus, Applicant has amended independent claim 1 to include original dependent claim 2.

Further to Ishikawa failing to explicitly disclose the features of original independent claim 1, Ishikawa fails to explicitly disclose the features of original dependent claim 2 because the claimed apparatus includes setting the transmission rate of the data 1) according to the communication condition (*i.e.*, a detected signal strength, a detected channel interference) **and** 2) according to the type of video and/or audio content (*i.e.*, movie, news, drama, music program, sports, cartoon, and variety) and according to the reception data. As stated above, Ishikawa merely discloses the transmission rate can be set at a lower level when image information representing images in a region (coverage area) that does not correspond to a dynamic region or, in another embodiment, the transmission rate of the communication path can be set to a higher level when the image information includes no dynamic regions among the image information individually representing the images of the coverage areas of a single or a plurality of the cameras. (See Ishikawa, paragraphs 117 and 147.)

In regards to original independent claim 2, Ishikawa fails to disclose the video data and/or audio data to be transmitted has a plurality of content types and Ishikawa fails to disclose setting the transmission rate of the data 1) according to the communication condition (*i.e.*, a detected signal strength, a detected channel interference) **and** 2) according to the type of video and/or audio content (*i.e.*, movie, news, drama, music program, sports, cartoon, and variety) and according to the reception data. Applicant has *only* amended claims to move prosecution forward even though Ishikawa fails to explicitly disclose the claimed apparatus of original independent claim 2.

Thus, Applicant has amended independent claim 1 to include dependent claim 2 and additional limitations.

Further, the claimed “content types” as used in the specification specifically include (as stated above) Movie, News, Drama, Music Program, Sport, Cartoon, and Variety. (See specification, lines 16-17 of page 31 and Figure 7.)

According to the transmitter of claim 2, in the case of a program such as “News” whose sound-transmitting function is more important than the image quality, the transmission rate of the program is reduced sufficiently to attain a lower error rate which has a priority in this case. In contrast, in the case of a program such as “Movie” whose image-transmitting function is more important, deterioration in image quality needs to be avoided, so that a transmission rate of the program is prevented from being decreased by more than a certain degree. (See specification, lines 4-12 of page 8.)

Therefore, the transmitter of claim 2 has the following advantage (one benefit) that is unachievable by Ishikawa: even when the communication condition deteriorates, it is possible to minimize deterioration of the video and/or audio data by maintaining the transmission rate according to the content type. (See specification, lines 12-16 of page 8.) On the other hand, Ishikawa is silent about the “content types.”

Ishikawa fails to show or suggest the communication condition is a detected signal strength or a detected channel interference as now claimed, Ishikawa fails to disclose the video data and/or audio data to be transmitted has a plurality of content types, and Ishikawa fails to disclose setting the transmission rate of the data 1) according to the communication condition (*i.e.*, a detected signal strength, a detected channel interference) **and** 2) according to the type of video and/or audio content (*i.e.*, movie, news, drama, music program, sports, cartoon, and variety) and according to the reception data. Thus, claim 1 as amended is submitted to be allowable over Ishikawa for at least these reasons.

Independent claim 16 is allowable for similar reasons as set forth above in reference to independent claim 1.

Dependent claims 3-4, 15, and 22-23 are allowable for the reasons set forth above with regards to claim 1 at least based on their dependency on claim 1.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 3-4, 15-16, and 22-23 under 35 U.S.C. § 102(e).

Reconsideration and allowance of claims 1, 3-4, 15-16, and 22-23 are respectfully requested for at least these reasons.

Conclusion

Therefore, for at least these reasons, claims 1, 3-4, 15-16, and 22-23 are believed to be distinguishable over Ishikawa. It has been shown above that Ishikawa may not be relied upon to show at least these features. Therefore, claims 1, 3-4, 15-16, and 22-23 are distinguishable over the cited references.

In view of the above remarks and amendments, it is believed that the pending application is in condition for allowance.

Applicants respectfully request that the pending application be allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Aslan Ettehadieh Reg. No. 62,278 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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